

UNITED STATES COURT OF APPEALS

FEB 02 2015

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FRANCIS G HERNANDEZ,

Petitioner - Appellant,

v.

KEVIN CHAPPELL, Warden, California
State Prison at San Quentin,

Respondent - Appellee.

No. 11-99013

D.C. No. 2:90-cv-04638-RSWL
Central District of California,
Los Angeles

**ORDER SETTING
MEDIATION CONFERENCE**

Date: March 5, 2015

Time: 2:00 p.m. Pacific Time

This order supersedes the court's order of January 27, 2015.

Pursuant to this court's order, this appeal has been referred to the Mediation Program. See Fed. R. App. P. 33 and Ninth Cir. R. 33-1. The court has scheduled a telephone conference, with counsel only, on the date and time indicated above.

Chief Circuit Mediator Claudia L. Bernard will initiate the conference call by contacting each attorney on the attached list of participants at the telephone number listed. Please be available for the call at least five minutes before the scheduled time.

Counsel should review the attached list and inform the Mediation Assistant by email (Beatriz_Smith@ca9.uscourts.gov) of any corrections to the list.

Please notify Chief Circuit Mediator Claudia L. Bernard immediately by email (Claudia_Bernard@ca9.uscourts.gov) if counsel has an unavoidable scheduling conflict. Please copy all counsel on any such communications.

All discussions that take place in the context of the conference are strictly confidential. See Circuit Rule 33-1.

For more detailed information about the conference, confidentiality, the Mediation Program and its procedures generally, please see the attachment to this order and the Mediation Program web page: www.ca9.uscourts.gov/mediation.

FOR THE COURT

By: Beatriz Smith
Deputy Clerk

BS/Mediation

LIST OF CONFERENCE PARTICIPANTS

FRANCIS G HERNANDEZ
Petitioner - Appellant

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v.

KEVIN CHAPPELL, Warden
Respondent - Appellee

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UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
CIRCUIT MEDIATION OFFICE

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Phone: 415-355-7900 Fax: 415-355-8566

**INFORMATION ABOUT PHONE CONFERENCES PURSUANT TO
PANEL REFERRAL ORDERS**

Overview

- The purpose of the phone conference is to provide an opportunity for counsel and the Circuit Mediator to design a settlement process that will be as efficient and effective as possible. Possible process options include in-person mediation sessions with counsel and parties and continued telephone dialogues facilitated by the Circuit Mediator.
- The conference will be conducted by one of the nine Circuit Mediators, all of whom are court employees with extensive mediation and litigation experience.
- Counsel for all parties who have filed briefs in the case should participate in the telephone conference. The lawyer with the closest relationship to the client should be on the call. Clients are neither expected nor required to participate in the initial conference.
- In advance of the conference, counsel should have a discussion with their clients about their goals in the litigation, its possible costs and outcomes (good and bad), the potential for further legal proceedings, and what issues beyond the litigation might be explored in mediation. (See the court's website for more information and a list of questions to help you and your client get the most out of the mediation process).
- During the conference, the Circuit Mediator may ask some or all of the following questions:
 - 1) What is the factual and legal background of the dispute?
 - 2) What issues need to be addressed in order to achieve settlement?

- 3) Who are the decision makers on each side who should be involved to achieve settlement?
- 4) Is there other litigation or are there other disputes that the parties wish to include in these discussions?
- 5) If there is an in-person mediation, what venue is the most convenient for the greatest number of people?
- 6) When is the best date and time to hold a mediation?
- 7) What does the mediator need to do to prepare for the mediation?
- 8) What do the lawyers and parties need to do to prepare?
- 9) Are there any particular sensitivities of which the mediator should be aware?

Confidentiality

- Settlement-related information disclosed to a Circuit Mediator will be kept confidential and will not be disclosed to the judges deciding the appeal or to any other person outside the Mediation Program participants. Ninth Cir. R. 33-1.
- All participants in the phone conference are required to abide by the Mediation Program's confidentiality rules. With limited exceptions, any communication made by the Circuit Mediator or any participant during the conference may not be used in any pending or future proceeding in this court or any other forum and may not be disclosed to anyone who is not a participant. Gen. Or. 7.4.

More information is available on the Mediation Circuit link on the Ninth Circuit website www.ca9.uscourts.gov/mediation.